## CITY OF NEW ORLEANS CHIEF ADMINISTRATIVE OFFICE

#### POLICY MEMORANDUM NO. 67

July 11, 1985

TO: All Departments, Boards, Agencies, and Commissions

FROM: Coralee Basile, Chief Administrative Officer

SUBJECT: EXECUTIVE ORDER NO. 84-01

#### 1. PURPOSE.

Mayor Ernest N. Morial issued Executive Order No. 84-01 which provides for a twenty percent (20%) subcontractor's participation clause for minorities and a five percent (5%) subcontractor's participation clause for women in City administered construction projects where the value exceeds \$100,000. The percentage goals specified above shall apply to the amount to be subcontracted rather than total contract amount.

#### 2. EFFECTIVE DATE.

The provisions of this policy shall be effective on any projects released for bid after October 1, 1985.

#### 3. APPLICABILITY.

- A. The provisions of this policy shall apply to all work subcontracted out on City administered projects in excess of \$100,000.
- B. The provisions of this policy shall not apply to construction contracts which are originally budgeted under the \$100,000. Dollar limit. Those construction contracts which are valued at under \$100,000 limit shall be exempt from the provisions of this policy.
- C. The provisions of this policy shall apply to all City department contracts as well as the Parkway and Park Commission and the Public Library. All other boards, agencies and commissions are urged to incorporate the provisions of this policy into all their contracts for construction projects which they fund or administer. If a board, agency or commission decides to adopt the provisions of this policy, that board, agency or commission must contact the Program Compliance Section of the Chief Administrative Office for guidance in implementing the policy.

#### 4. MONITORING/ENFORCEMENT.

The program Compliance Section of the Administrative Office will be responsible for the monitoring and enforcement of executive Order 84-01.

#### 5. CIRTERIA FOR CONTRACT AWARD.

- A. The Awarding Agency shall recommend that the contract be awarded to the lowest responsible bidder who is also responsive to the City's contract documents. To be considered responsive, the bidder must either meet or exceed the City's goals as specified in Executive Order No. 84-01, or provide compelling documentation that he/she actively and aggressively worked to achieve the goals.
- B. All monitoring Business Enterprise (MBE) and Women Business Enterprise (WBE) concerns must be certified with the Mayor's office of Minority Business Development prior to the submittal of the bid by the prime contractor to the City.
- C. To determine if the contractor's performance toward meeting the participation goals is a good faith effort, the City will review not only the different actions taken by the contractor, but also the quantity and intensity of these actions. However, to ensure that the City of New Orleans continues to enjoy the lowest cost possible, as required by the public bid laws, the contractor will be deemed to be in good faith in rejecting any MBE/WBE bids which are ten percent (10%) higher than other available prices.
- D. The Mayor's Office of Minority Business Development will assist the contractor by making available, on request, information obtained by the City pertaining to MBE's and WBE's. The Mayor's Office of Minority Business Development also maintains, and will supply, lists of certified MBE and WBE firms.

#### 6. DETERMINATION OF THE VALUE OF MBE/WBE PARTICIPATION.

- A. Determination of the value of MBE or WBE participation shall be made by the Office of Minority Business Development.
- B. The following guidelines will be applied in valuing the participation of MBE's and Wbe's:
  - 1. MBE and WBE suppliers will be given full credit for purchase orders if the supplier takes possession of the product and assumes the risks of its delivery. If the minority supplier is used as a broker or an agent, only the amount of the commission or 5% of the purchase price, whichever is greater, will be allowed for MBE or WBE credit.

- 2. MBE and WBE manufactures will be credited the entire amount of purchase orders regardless of who does the installation.
- 3. If the amount of work subcontracted out to a non-minority firm by an MBE subcontractor or supplier (or to a non-women firm by a WBE subcontractor or supplier) exceeds 70% of his/her subcontract, the contract will not be credited towards meeting the MBE (or WBE) goals.
- 4. In a joint venture between majority contractors and/or MBE/WBE contractors at the prime level, the value of the venture towards meeting the goal shall be the percentage of the partner's share multiplied by the contract amount after any and all work to be done by subcontractors is deducted from the contract amount.
- 5. In a joint venture between a majority subcontractor and an MBE subcontractor (or a male subcontractor and WBE) at the subcontractor level, the value of the venture towards meeting the goal shall be the percentage of MBE (or WBE) ownership multiplied by the subcontract amount.

# 7. NOTIFICATION OF THE CONTRACTOR, THE PROGRAM COMPLIANCE SECTION, CAO, AND THE OFFICE OF MINORITY BUSINESS DEVELOPMENT.

- A. The City department initiating the bid shall ensure that the requirements of Executive Order 84-01 are included in bid specifications for the applicable construction projects in excess of \$100,000. The requirements shall be included by attaching the appropriate contract supplement.
- B. The City department initiating the bid shall notify the Program Compliance Section, CAO, and the Office of Minority Business Development, in advance, whenever a pre-bid conference, or pre-construction conference is scheduled. The Bureau of Purchasing, Dept. of Finance shall notify the Program Compliance Section, CAO, and the Office of Minority Business Development of every contract signed for construction projects. Additionally, the Bureau of Purchasing shall provide the Program Compliance Section, CAO with a signed copy of all construction contracts covered under the terms of this memorandum.
- C. Pre-construction and pre-bid conferences shall be mandatory for all City construction projects. The department responsible for the contract shall be responsible for scheduling the conferences and for notifying the Program Compliance Section, CAO, and the Office of Minority Business Development, in advance, of the scheduled date and time of the meeting. The Program Compliance Section, CAO and the Office of Minority Business Development shall be represented at all pre-construction and pre-bid conferences to explain the requirements of

- E.O. 84-01. At the conference, the contractor will be required to sign a statement attesting to his/her knowledge of E.O. 84-01, and to his/her intent to comply with its provisions.
- D. The department responsible for the contract, i.e. (Awarding Agency), shall notify the Program Compliance Section, CAO and the Office of Minority Business Development of the start of construction.

### 8. INQUIRIES.

Any questions concerning this memorandum should be addressed to the Office of Minority Business Development or the Program Compliance Section of the Administrative Office. Questions concerning the intent of Executive Order 84-01 should be addressed to the Mayor's Office of Minority Business Enterprise.

CB:KS:ch